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| FITCH, EVEN, TABIN & FLANNERY P. O. BOX 18415 WASHINGTON, DC 20036 | | | EXAMINER MC CARTHY, CHRISTOPHER S | |
| | | | ART UNIT 2113 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,603

Applicant(s)

ENGLERT ET AL.

Examiner

CHRISTOPHER S. MCCARTHY

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 6/20/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The listing of references in the Search Report is not considered to be an information disclosure statement (IDS) complying with 37 CFR 1.98. 37 CFR 1.98(a)(2) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all other information, or that portion which caused it to be listed. In addition, each IDS must include a list of all patents, publications, applications, or other information submitted for consideration by the Office (see 37 CFR 1.98(a)(1) and (b)), and MPEP § 609.04(a), subsection I. states, "the list ... must be submitted on a separate paper." Therefore, the references cited in the Search Report have not been considered. Applicant is advised that the date of submission of any item of information or any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the IDS, including all "statement" requirements of 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being obvious over Kastura et al. U.S. Patent 4,271,402 in view of Fiechter et al. U.S. Patent 6,609,051.

As per claim 1, Kastura teaches a method of reading messages which are sent over a data bus in a motor vehicle between electronic units, comprising: at least one communications network based on at least one data bus to which several electronic units are connected by means of a bus interface (fig. 2), at least one data interface for connecting the communications network with an external data processing unit (column 5, lines 18-21), at least one cyclically overwritable, volatile storing means for the storing of messages which were sent in the communications network (column 10, lines 45-48; column 1, lines 47-53), at least one monitoring unit having an executable program which examines the messages stored in the volatile storing means for selected, parameterizable attributes (column 1, lines 8-12), at least one definable trigger event, whose occurrence is monitored by the executable program (column 10, lines 7-44). Kastura does not teach upon whose occurrence the cyclical overwriting of the volatile storing means is stopped for at least as long until the data content of the volatile storing means is transferred to a second, non-volatile storing means. Fiechter teaches transferring the data to a second, non-volatile storing means (column 16, lines 10-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the process of

Fiechter in the process of Kastura. One of ordinary skill in the art would have been motivated to use the process of Fiechter in the process of Kastura because Fiechter teaches his invention to be for the improved diagnosis of motor vehicles (column 1, lines 7-15); an explicit desire of Kastura (column 1, lines 25-27).

As per claim 2, Kastura teaches the method as defined in claim 1, wherein the definable trigger event may be read or exchanged over the data interface of the communications network (column 10, lines 45-48; fig. 2).

As per claim 3, Kastura teaches the method as defined in claim 1, wherein the parameterizable attributes may be read or exchanged over the data interface of the communications network (column 10, lines 45-48; column 1, lines 8-12).

As per claim 4, Kastura teaches the method as defined in claim 1, wherein the data content of the non-volatile storing means is, upon request by an external electronic data processing device, read thereinto over the data interface of the communications network (column 8, lines 34-38).

As per claim 5, Kastura teaches the method as defined in claim 1, wherein the trigger event is formed from a logic or time-related concatenation of the parameterizable attributes (column 6, line 66 – column 7, line 25).

As per claim 6, Kastura in view of Fiechter teaches the method as defined in claim 1. Fiechter teaches wherein the data bus is a CAN bus and the data interface is a serial interface or a modem interface (column 1, lines 24-26; column 3, lines 17-18).

As per claim 7, Kastura in view of Fiechter teaches the method as defined in claim 6. Fiechter teaches wherein the modem interface is a mobile wireless interface based on the standards of SMS, GSM or GPRS (column 3, lines 17-18).

As per claim 8, Kastura teaches the method as defined in claim 1, wherein the parameterizable attributes are CAN identifier, error bits, error codes or selected travel data of the motor vehicle (column 10, lines 63-66).

As per claim 9, Kastura teaches the method as defined in claim 1, wherein several trigger events are defined and monitored (column 11, lines 17-21).

As per claim 10, Kastura teaches the method as defined in claim 1, wherein after occurrence of a trigger event, a notification to an external data processing device concerning the occurrence of the event is effected (column 8, lines 34-42).

As per claim 11, Kastura teaches the method as defined in claim 10, wherein the data content of the non-volatile storing means is, after sending the notification, read into an external electronic data processing device at the request thereof (column 8, lines 34-42; column 5, lines 21-28).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference

under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER S. MCCARTHY whose telephone number is (571)272-3651. The examiner can normally be reached on M-F, 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. McCarthy/
Primary Examiner, Art Unit 2113